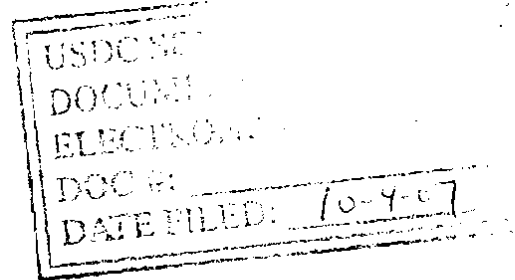


Keenan, J

Norman C. Kleinberg (NK 2735)
Theodore V. H. Mayer (TM 9748)
William J. Beausoleil (WB 5296)
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004-1482
(212) 837-6000

Attorneys for Defendant Merck & Co., Inc.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE: :
Fosamax Products Liability Litigation : 1:06-md-1789 (JFK)
-----X
This Document Relates to: :
Maureen Smith :
v. Merck & Co., Inc. :
:
Case No: 1:07-cv-6755-JFK :
-----X

STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

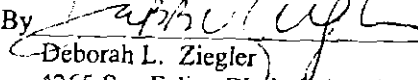
IT IS HEREBY STIPULATED AND AGREED by and between
Plaintiff Maureen Smith and Defendant Merck & Co., Inc., ("Merck") through their
respective undersigned counsel, as follows:

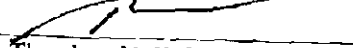
1. This case having been resolved upon the agreement of Plaintiff to voluntarily dismiss without prejudice her claims against Merck in the above-captioned case and the agreement of Merck not to seek from Plaintiff its fees and costs, this case is hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii).
2. Plaintiff further agrees to re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy in this Court.
3. Each party is to bear its own costs and attorneys' fees.

~~October~~
Dated: ~~September~~ __, 2007

REICH & BINSTOCK, LLP

HUGHES HUBBARD & REED LLP

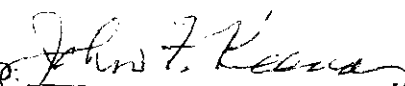
By 
Deborah L. Ziegler
4265 San Felipe Blvd., Suite 1000
Houston, Texas 77027
(713) 622-7271

By 
Theodore V. H. Mayer (TM 9748)
One Battery Park Plaza
New York, New York 10004
(212) 837-6888

Attorneys for Plaintiff

Attorneys for Defendant Merck & Co, Inc.

SO ORDERED:


Hon. John F. Keenan

10/4/07